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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

THIRD APPELLATE DISTRICT

(Shasta)

THE PEOPLE,

Plaintiff and Respondent,

v.

WILLIAM ROBERT REID,

Defendant and Appellant.

C083899

(Super. Ct. No. 15F5330)

This appeal comes to us pursuant to *People v. Wende* (1979) 25 Cal.3d 436. We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

We provide the following brief description of the facts and procedural history of the case. (See *People v. Kelly* (2006) 40 Cal.4th 106, 110, 123-124.)

A felony criminal complaint filed in case No. 15F5330 charged defendant William Robert Reid with receiving a stolen motor vehicle. (Pen. Code, § 496d, subd. (a); count 1.)¹ Defendant thereafter pleaded no contest to count 1; simultaneously, he pleaded no contest to misdemeanor possession of a controlled substance in case No. 16M3803 and admitted a violation of probation in case No. 13F3467. In return, he was promised a grant of formal felony probation with 120 days in jail in case No. 15F5330, plus informal probation in case No. 16M3803 and the revoking and reinstating of felony probation in case No. 13F3467.

The parties stipulated that the factual basis for the plea was contained in the sheriff's report. As summarized in the probation report, the sheriff's report stated that on July 27, 2015, a sheriff's deputy observed a white adult female, whom he knew to be on searchable probation and to have three outstanding arrest warrants, driving a red Nissan Maxima. Defendant was accompanying her. After she parked outside a market, the deputy contacted the two inside the store, escorted them outside, and handcuffed them. Dispatch reported the car was stolen. Defendant claimed he had obtained it a month ago by trading three pounds of marijuana for it, but did not receive the title.

The probation report recommended the following fines, fees, and assessments: a \$780 fine comprised of a \$200 base fine (§ 672), a \$200 state penalty assessment (§ 1464, subd. (a)), a \$20 DNA penalty assessment (Gov. Code, § 76104.6), an \$80 DNA penalty assessment (Gov. Code, § 76104.7), a \$100 state court facilities construction fee (Gov. Code, § 70372, subd. (a)(1)), a \$140 county penalty assessment (Gov. Code, § 76000, subd. (a)(1)), and a \$40 state criminal fine surcharge (§ 1465.7, subd. (a)); a \$40 court operations assessment fee (§ 1465.8, subd. (a)(1)); a \$30 criminal conviction assessment fee (Gov. Code, § 70373); restitution plus a 15 percent administrative fee as directed by

¹ Undesignated statutory references are to the Penal Code in effect at the time of the charged offenses.

the probation officer; an unspecified amount as a restitution fine (§ 1202.4, subd. (b)); and the same amount suspended as a probation revocation restitution fine (§ 1202.44). As a separate order (not as a condition of probation), the report recommended \$75 per month maximum for the cost of probation services, a \$151 booking fee, and a \$250 fee for preparation of the presentence investigation report (§ 1203.1b, subd. (a)), all subject to defendant's ability to pay.

The trial court suspended imposition of sentence for three years and granted formal probation for that period of time, including 120 days in jail, offset by nine days of presentence custody credits (five actual days and four conduct days). The court imposed all recommended fines, fees, and assessments, setting the restitution fine and the matching suspended probation revocation restitution fine at \$300 each, and reserved jurisdiction over victim restitution. The court also ordered separately the recommended amounts for the cost of probation services, the booking fee, and the preparation fee for preparation of the presentence investigation report, plus \$420 for attorney time, all subject to defendant's ability to pay.

WENDE REVIEW

We appointed counsel to represent defendant on appeal. Counsel filed an opening brief that sets forth the facts of the case and requests this court to review the record and determine whether there are any arguable issues on appeal. (*People v. Wendt, supra*, 25 Cal.3d 436.) Defendant was advised by counsel of the right to file a supplemental brief within 30 days of the date of filing of the opening brief. More than 30 days elapsed, and we received no communication from defendant.

Having undertaken an examination of the entire record we note that the trial court erroneously imposed payment of the \$40 court operations assessment fee (§ 1465.8, subd. (a)(1)) and the \$30 criminal conviction assessment fee (Gov. Code, § 70373) as conditions of probation. These fees are “ ‘collateral’ ” to a defendant's crime and punishment and are “not oriented toward a defendant's rehabilitation but toward raising

revenue for court operations.” (*People v. Kim* (2011) 193 Cal.App.4th 836, 842.) While the fees are mandatory and defendant must pay them, they may not be imposed as a condition of probation. (*Id.* at pp. 842-843.) We order that the fees be deleted from defendant’s conditions of probation.

Having found no other arguable error that would result in a disposition more favorable to defendant, we otherwise affirm.

DISPOSITION

The judgment is modified to delete the \$40 court operations assessment fee (§ 1465.8, subd. (a)(1)) and the \$30 criminal conviction assessment fee (Gov. Code, § 70373) from defendant’s conditions of probation. The payment of those fees shall be imposed as separate orders. The trial court is directed to modify the minute order and conditions of probation accordingly.

The judgment is otherwise affirmed.

s/MURRAY, Acting P. J.

We concur:

s/DUARTE, J.

s/HOCH, J.